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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,700	11/12/2003	Edward D. Riley	16432-0042P1	8582
24267	7590	10/30/2006		
CESARI AND MCKENNA, LLP 88 BLACK FALCON AVENUE BOSTON, MA 02210			EXAMINER CHORBAJI, MONZER R	
			ART UNIT	PAPER NUMBER

1744

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,700

Applicant(s)

RILEY, EDWARD D.

Examiner

MONZER R. CHORBAJI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This final action is in response to the amendment received on 07/24/2006

Claim Objections

1. Claim 17 is objected to because of the following informalities: Instant claim 17 does not include a claim identifier such as "original". Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Yee et al (U.S.P.N. 5,108,287).

Regarding claim 1, Yee discloses a dental tray assembly (figure 2:12 and 10) that includes the following: a unitary molded plastic base (figure 2:10 and col.3, lines 3-5), a plurality of individual tubes having open lower and upper ends (figure 4:unlabeled tubes), first web (figure 2:14, 16, 18 and 20) with a periphery connecting and supporting the tubes, instrument supports at the lower ends of the plurality of tubes (unlabeled bottoms of tubes in figure 4 are capable of supporting dental instruments) and a unitary molded plastic cover for the base (figure 2:-12). In addition, a sterilizing fluid when injected into orifices 44 of figure 2 and circulated through drainage passages 24 in figure 2 is capable of circulating around (for example, steam moves from one of the orifices 44 in a circle down one of the unlabeled tubes in figure 4 and out from drainage

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passage 24) and between (for example, steam moves between the tops of vertical orifices 22 in figure 2) the tubes from the first web to the lower ends of the passages.

Regarding claims 2-6 and 8, Yee teaches the following: the upper ends of the first passages are flared (unlabeled flared upper ends of the passages in figure 4), base and cover include interfitting latching surfaces (figures 2 and 5 where surface 14 of the base and unlabeled opposite surface of the cover interfit and col.3, lines 3-23), first web (figure 2:14, 16, 18 and 20) includes a top wall (figure 2:14) of the base (figure 2:10) and includes a peripheral web extending down from the first web and spaced around the plurality of tubes (figure 2:16 and unlabeled opposite side walls of the base 10), peripheral web includes a side wall of the base (figure 2:18), first web includes a top web (figure 2:14), one or more receptacles in the tray wall (figure 2:22) and bridges at the lower ends of the tubes that partially occlude the lower ends of the tubes (unlabeled bottom curving surfaces of the unlabeled tubes in figure 5).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yee et al (U.S.P.N. 5,108,287) as applied to claim 5 and further in view of Rose (U.S.P.N. 6,328,565).

Yee fails to teach placing indicia on the top wall for indicating the contents of the base. Rose teaches placing indicia on holder (see figure 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to place indicia on the tray of Yee device so that persons can readily learn and/or become accustomed to the bur characteristics so that bur identification in the future is made easier (Rose, see abstract).

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yee et al (U.S.P.N. 5,108,287) as applied to claim 1 and further in view of Kazen et al (U.S.P.N. 4,253,830).

Yee fails to teach placing interior flanges at the lower ends of the tubes. Kazen teaches in figure 4 where unlabeled flanges in the lower region of receptacle 28 holds bur FG. Clearly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the lower region of the tubes in the tray of Yee device so that different types of bur devices can be supported and sterilized in Yee's tray assembly.

8. Claims 10-13 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yee et al (U.S.P.N. 5,108,287) as applied to claim 1 and further in view of Friedman (U.S.P.N. 3,248,167).

Regarding claim 18, Yee discloses a dental tray assembly (figure 2:12 and 10) that includes the following: a unitary molded plastic base (figure 2:10 and col.3, lines 3-5), top wall (figure 2:14), a plurality of individual tubes extending downward from top wall having open lower and upper ends (figure 4:unlabeled tubes), a periphery wall extending downward from the top wall (figure 2:16 and 18) being spaced from the surrounding tubes (unlabeled spaces between 16, 18 and unlabeled tubes in figure 4) and instrument supports at the lower ends of the plurality of tubes (unlabeled bottoms of tubes in figure 4 are capable of supporting dental instrument). Furthermore, Yee teaches a molded plastic cover for the base (figure 2:12 and col.3, lines 3-5) that includes the following: a top wall (unlabeled top wall of 12 in figure 2), a sleeve extending down from the top wall of the cover in parallel spaced-apart relation (unlabeled inner walls of 36 and 38 in figure 5), sleeve defining second passage (unlabeled space contained between 36 and 38 of figure 5) that is open at the bottom (unlabeled open bottom of unlabeled space in figure 5) and the top (figure 5:44), lower end of the sleeve has substantially the same cross-section as the upper end of the first passages (unlabeled space contained between 36 and 38 and unlabeled tube in figure 5) and a peripheral wall extending down from the top wall of the cover so as to surround the sleeve (figure 5:36 and 38). Yee fails to teach the use of more than one individual sleeve. Friedman teaches the use of plurality of individual sleeves (figure 2:14 and 16).

Upon utilizing Friedman teachings of placing individual sleeves in the plastic molded cover of Yee device, passages in both of the base and the top of Yee device are co-linear and continuous. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the one large passage in the cover of Yee's assembly with individualized sleeves as taught by Friedman so that different sized burs do not damage each other during handlings or also during sterilization cycles.

Regarding claims 10 and 12, Yee teaches a plastic molded cover for the base (figure 2:12 and col.3, lines 3-5) that includes the following: a top wall (unlabeled top wall of 12 in figure 2), a sleeve extending down from the top wall of the cover in parallel spaced-apart relation (unlabeled inner walls of 36 and 38 in figure 5), sleeve defining second passage (unlabeled space contained between 36 and 38 of figure 5) that is open at the bottom (unlabeled open bottom of unlabeled space in figure 5) and the top (figure 5:44), lower end of the sleeve has substantially the same cross-section as the upper end of the first passages (unlabeled space contained between 36 and 38 and unlabeled tube in figure 5), a peripheral wall extending down from the top wall of the cover so as to surround the sleeve (figure 5:36 and 38), a second web (unlabeled lower ends of 38 and 36 in figure 5 that interfit with the top surface of the base) having a periphery and connecting the sleeve (unlabeled inner walls of 36 and 38 in figure 5) and the upper ends of the second passage is smaller than the lower end of the second passage (unlabeled distance of the upper end and the lower end of the unlabeled space in figure 5 between 36 and 38). The Yee reference fails to teach the use of more than

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one individual sleeve. Friedman teaches the use of plurality of individual sleeves (figure 2:14 and 16). Upon utilizing Friedman teachings of placing individual sleeves in the plastic molded cover of Yee device, passages in both of the base and the top of Yee device are co-linear and continuous so as to isolate any instrument therein from those in adjacent passages. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the one large passage in the cover of Yee's assembly with individualized sleeves as taught by Friedman so that different sized burs do not damage each other during handlings or also during sterilization cycles.

Regarding claims 11 and 13, Yee teaches that the second passage is longer than the first passage (unlabeled space contained between 36 and 38 of figure 5 and unlabeled first passage from the left side in figure 4) and that the cross-section of the second passage is larger than the first passage (cross section of the unlabeled space contained between 36 and 38 of figure 5 and cross section of the unlabeled first passage from the left side in figure 4). Yee fails to teach the use of more than one sleeve. Friedman teaches the use of a plurality of individual sleeves (figure 2:14 and 16). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the one large passage in the cover of Yee's assembly with individualized sleeves as taught by Friedman so that different sized burs do not damage each other during handlings or also during sterilization cycles.

Regarding claim 17, the sidewall of the base (figure 2:10 and 16) of the tray assembly of Yee has a lower edge (figure 2:20) spaced below the lower ends of the tubes (unlabeled bottom portions of tubes in figure 4).

9. Claims 14-16 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yee et al (U.S.P.N. 5,108,287) as applied to claim 1 and further in view of Friedman (U.S.P.N. 3,248,167) as applied to claims 10 and 18 and further in view of Brewer (U.S.P.N. 4,959,199).

Regarding claims 14-16 and 19-21, Yee discloses a dental tray assembly (figure 2:12 and 10) that includes the following: a first web (figure 2:14, 16, 18 and 20) having a top wall (figure 2:14) of the base (figure 2:10), the base includes a side wall extending down from the top wall of the base (figure 2:16), second web (unlabeled web that constitute the cover 12 in figure 2) having a top wall (unlabeled surface of the cover that interfit with the top surface of the base) of the cover (unlabeled top wall of 12 in figure 2), the cover includes a side wall extending down from the top wall of the cover (unlabeled cover of legs 30 in figure 2). Both Yee and Friedman fail to teach the use of first keying and second keying surfaces. Brewer teaches dental cassettes with various first and second keying surfaces (unlabeled first and second keying surfaces in figure 1 or 56 and unlabeled second keying surfaces in figure 13) distributed around the peripheries of both the top and bottom portions of the containers. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add first and second keying surfaces to the dental tray assembly of Yee so that

accidental opening of the tray assembly during handling is prevented upon inclusion of this additional closing mechanism.

Remarks

10. Amendments to the drawings and the specification submitted on 07/24/2006 have been accepted.

Response to Arguments

11. Applicant's arguments filed on 07/24/2006 have been fully considered but they are not persuasive.

On page 3 of the Remarks section, Applicant argues that Yee container is not composed of individual tubes held in spaced-apart relation so that a fluid can circulate around and between them. The examiner disagrees. Yee discloses a plurality of individual tubes (unlabeled tubes in figure 4 have separating space distances between them regardless of whether solid is present or not between the tubes) having open lower and upper ends (figure 4:unlabeled tubes) such that when a sterilizing fluid is injected into orifices 44 of figure 2 , it capable of circulating around (for example, steam moves from one of the orifices 44 in a circle down one of the unlabeled tubes in figure 4 and out from drainage passage 24) and between (for example, steam moves between the tops of vertical orifices 22 in figure 2) the tubes from the first web to the lower ends of the passages. See MPEP 2114.

On page 4 of the Remarks section, Applicant argues that the motivation statement provided by the examiner for combining Yee with Friedman is based on substitution of the cover. The examiner disagrees since Friedman is combined with Yee

for the teaching of plurality of individual sleeves (figure 2:14 and 16). Upon utilizing Friedman teachings of placing individual sleeves in the plastic molded cover of Yee device, passages in both of the base and the top of Yee device are co-linear and continuous. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the one large passage in the cover of Yee's assembly with individualized sleeves as taught by Friedman so that different sized burs do not damage each other during handlings or also during sterilization cycles.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

13. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R. CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 9:00-5:30.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, GLADYS J. CORCORAN can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MRC


GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER